IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 16080 of 2002

Between:

M. Venkatesham S/o M. Rangaiah
R/o H. No. 155, Kuntloor Colony Hayathnagar,
Ranga Reddy District

..... PETITIONER

AND

1 The Chairman & Managind Director
The APSRTC, Musheerabad Hyderabad
2 The Divisional Manager,
The APSRTC Hyderabad Division Dilsukhnagar
Hyderabad.
3 The Depot Manager Ibrahimpatnam Depot
The APSRTC., Ibrahimpatnam, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction or Writ particularly one in the nature of Writ of Mandamus, declaring the action the respondents in imposing the punishment of deferment of annual increments to a period of two years which shall have the effect of postponing of future
increments is fit and proper to be imposed upon you besides treating the period of suspension as not on duty for all purposes by the 3rd respondent by its proceedings no. 02/95(17)/2000-HYD dt 16/10/2000 and the same was formed by the Appellate Authority 2nd respondent herein by its proceedings No. PA/19(103).2000 H.D. dt 22/2/2001 is wholly illegal, arbitrary and unjust and contrary to law and also violative of Art 14,16,& 21 of the constitution of India and consequently direct the respondents to pay his increments with arrears and other benefits and treating the suspension period as on duty for all purposes.

Counsel for the Petitioner :MS.B.MALLESWARI
Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following :

ORDER:

Challenging the action of the respondents in imposing the punishment of deferment of annual increments for a period of two years which will have the effect on future increments, by proceedings dated 16.10.2000 and as confirmed by the appellate authority on 22.02.2001, the present writ petition is filed.

The learned counsel for the petitioner contended that the charges levelled against the petitioner are very trivial in nature and therefore, imposing of a major penalty of withholding increments for a period of two years with cumulative effect is disproportionate and hence, the same is liable to be set aside.

On the other hand, learned standing counsel for the respondents contended that after conducting an enquiry and after giving a reasonable opportunity to the petitioner to rebut the allegations, the punishment has been imposed and therefore, the punishment is proportionate with the proved misconduct. Hence, there are absolutely no grounds to interfere with the impugned order.

The charges levelled against the petitioner vide charge sheet dated 26.02.2000 are as follows in the same verbatum:

> Charge No.1: “You have failed to collect fare and issue ticket to a passenger found alighting at Kawadipally who boarded the bus at Baliaguda ex.stages 16 to 15 on 19.02.2000 in a very meager capacity of 2 + 1 passengers.”
>
> Charge No.2 : “you have failed to close the SR NO.A1/9064172 dt.19/02/2000 of all deno against stages 16 (Balijaguda and 15 Kawadipally)”

On the basis of the above charges, a departmental enquiry has been conducted and the petitioner was given a reasonable opportunity to rebut the allegations. After completion of enquiry, the enquiry officer submitted a report to the disciplinary authority and having accepted the same, the disciplinary authority imposed

punishment on the petitioner. Being aggrieved by the same, the petitioner filed an appeal before the Divisional Manager. The Divisional Manager, through his proceedings dated 22.02.2001 dismissed the same. Challenging the same, the present writ petition is filed.

There cannot be any dispute that the administrator's decision can be challenged before this Court on three grounds i.e., irrationality, impropriety and illegality. The petitioner has not challenged the findings of the enquiry officer on the ground of irrationality or illegality. It is not the case of the petitioner that the principles of natural justice have been violated by the respondent-corporation in conducting the enquiry. But, the only contention of the learned counsel for the petitioner is that the misconduct alleged is disproportionate to the punishment imposed.

Coming to the facts of the case on hand, it is not the allegation of either irregularity or appropriating certain amounts from the passengers without issuing any tickets by the petitioner. The mere charge is that the petitioner failed to collect the fare from the passengers at the boarding point and closed the statistical return. The explanation given by the petitioner is that due to sleepless night he has forgotten to collect the fare immediately from the passengers, who boarded at stage 16, and while he was approaching the passengers to collect the fare, a check has been conducted by the officials of the respondent-corporation. So, the conduct of the petitioner in this regard cannot be construed to be blame-worthy inasmuch as the act of the petitioner amounts to either negligence or oversight or sleeplessness and therefore, it cannot be said that any financial loss would be caused to the respondent-corporation.

In view of the above facts and circumstances of the case and considering the trivial nature of the charges, this Court is of the opinion that the punishment awarded by the respondent-Corporation, is disproportionate with the proved misconduct and therefore, it is a fit case wherein the punishment can be modified.

I feel that it is just and proper to modify the punishment imposed by the disciplinary authority postponing the annual increments for a period of two years, which shall have the effect on future increments as confirmed by the appellate authority, to that of postponing of annual increments for a period of two years without cumulative effect.

Accordingly, this writ petition is partly allowed with the modification as

indicated above. No costs.

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09.06.2005

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To

1 The Chairman & Managind Director
The APSRTC, Musheerabad Hyderabad
2 The Divisional Manager,
The APSRTC, Hyderabad Division Dilsukhnagar
Hyderabad.
3 The Depot Manager Ibrahimpatnam Depot
The APSRTC., Ibrahimpatnam, Ranga Reddy District.

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